

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 11/30/11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

WESAM EL-HANAFI,
a/k/a "Khaled," and
SABIRHAN HASANOFF,
a/k/a "Tareq,"

Defendants.

Order
S5 10 Cr. 162 (KMW)

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KIMBA M. WOOD, U.S.D.J.:

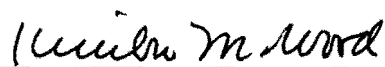
On March 2, 2010, a grand jury indicted Wesam El-Hanafi ("El-Hanafi") and Sabirhan Hasanoff ("Hasanoff") (collectively, "Defendants"), charging them with conspiracy to provide, and with providing, material support to a foreign terrorist organization, in violation of 18 U.S.C. § 2339B, and with conspiracy to make, and with making, a contribution of funds, goods, or services to a foreign terrorist organization, in violation of 50 U.S.C. § 1705(a). The Defendants have filed six different motions to dismiss the Indictment or, in the alternative, to suppress evidence gathered prior to their indictment and arrest.

Among these motions, El-Hanafi moves to suppress his statements to the F.B.I. on the ground that they were coerced, and thus made in violation of his rights under the Fifth Amendment privilege against self-incrimination and the Fourteenth Amendment guarantee of due process. After reviewing the parties' briefs, the Court concludes that an evidentiary hearing is necessary to clarify the conditions of El-Hanafi's interrogation. At this hearing, the parties shall present evidence to address: 1) whether El-Hanafi reasonably believed he was in custody during his interrogation; and 2) whether the context of the interrogation denied El-Hanafi the

choice to admit, deny, or refuse to answer the questions posed to him. The parties are directed to appear before the Court on December 13, 2011 at 10:00 a.m. in Courtroom 18B.

SO ORDERED.

DATED: New York, New York
November ~~30~~, 2011

Handwritten signature of Kimba M. Wood in black ink.

KIMBA M. WOOD
United States District Judge